

L. CHILDREN WITH DISABILITIES WHO ARE
PLACED IN A NON-DoD SCHOOL OR FACILITY

(1) Children with disabilities who are eligible to receive a DoD school system education, but are placed in a non-DoD school or facility by a DoD school system, shall have all the rights of children with disabilities who are enrolled in a DoD school.

(2) A child with a disability may be placed in a non-DoD school or facility only if required by the IEP.

(3) Placement by DoDDS in a host-nation non-DoD school or facility shall be made under the host-nation requirements.

(4) Placement by DoDDS in a host-nation non-DoD school or facility is subject to all treaties, executive agreements, and status of forces agreements between the United States and the host nations, and all DoD and DoD school system regulations.

(5) If a DoD school system places a child with a disability in a non-DoD school or facility as a means of providing special education and related services, the program of that institution, including non-medical care and room and board, as prescribed in the child's IEP, must be provided at no cost to the child or the child's parents. The DoD school system or the responsible DoD Component shall pay the costs in accordance with this part.

(6) DoD school officials shall initiate and conduct a meeting to develop an IEP for the child before placement. A representative of the non-DoD school or facility should attend the meeting. If the representative cannot attend, the DoD school system officials shall communicate in other ways to ensure participation including individual or conference telephone calls. The IEP must meet the following standards:

(i) Be signed by an authorized DoD school system official before it becomes valid.

(ii) Include a determination that the DoD school system does not currently have or cannot reasonably create an educational program appropriate to meet the needs of the child with a disability.

(iii) Include a determination that the non-DoD school or facility and its educational program and related services conform to the requirements of this part.

(7) *Cost of Tuition for Non-DoD School or Facility.* The Department of Defense is not authorized to reimburse the costs of special education if a parent unilaterally places the student in a non-DoD school without approval of the cognizant CSC and the Superintendent, in coordination with the Director of the DoD school system. A valid IEP must document the necessity of the placement in a non-DoD school or facility.

(i) Reimbursement may be required if a hearing officer determines that the DoD school system had not made FAPE available in a timely manner prior to enrollment in

the non-DoD school and that the private placement is appropriate.

(ii) Reimbursement may be reduced or denied if the parents did not inform the CSC that the placement determined by the CSC was rejected, including a statement of their concerns, and that they intended to place a child in a non-DoD school; or if 10 business days (Monday through Friday, except for Federal holidays) prior to the parents' removal of the child from the school, the parents failed to provide written notice to the DoD school system of their rejection of the placement decision concerning the child, the reasons for their rejection, and their intent to remove the child; or if the CSC informed parents of its intent to evaluate the child, but parents did not make the child available.

(iii) Reimbursement may not be reduced or denied for failure to provide the required notice if the parents cannot read and write in English; compliance would result in physical or emotional harm to the child; the DoD school prevented the parent from providing notice; or the parents had not received notice of a requirement to provide required notice.

M. CONFIDENTIALITY OF THE RECORDS

The DoD school system and EDIS officials shall maintain all student records in accordance with DoD Directive 5400.11.

N. DISPUTE RESOLUTION

A parent, teacher, or other person covered by this part may file a written complaint about any aspect of this part that is not a proper subject for adjudication by a due process hearing officer, in accordance with DSR 2500.11.

APPENDIX C TO PART 57—PROCEDURES
FOR THE PROVISION OF RELATED
SERVICES BY THE MILITARY MEDICAL
DEPARTMENTS TO DoDDS STUDENTS
ON IEPs

A. EVALUATION PROCEDURES

(1) Upon request by a DoDDS CSC, the responsible EDIS shall ensure that a qualified medical authority conducts or verifies a medical evaluation for use by the CSC in determining the medically related disability that results in a child's need for special education and related services, and oversees an EDIS evaluation used in determining a child's need for related services.

(i) This medical or related services evaluation, including necessary consultation with other medical personnel, shall be supervised by a physician or other qualified healthcare provider.

(ii) This medical evaluation shall include a review of general health history, current health assessment, systems evaluation to include growth and developmental assessment,

and, if pertinent, detailed evaluation of gross motor and fine motor adaptive skills, psychological status, and visual and audiological capabilities, including details of present level of performance in each of these areas affecting the student's performance in school.

(iii) The EDIS-related services evaluation shall be specific to the areas addressed in the referral by the CSC.

(2) EDIS shall provide a summary evaluation report to the CSC that responds to the questions posed in the original referral. The written report shall include:

- (i) Demographic information about the child.
- (ii) Behavioral observation of the child during testing.
- (iii) Instruments and techniques used.
- (iv) Evaluation results.
- (v) Descriptions of the child's strengths and limitations.
- (vi) Instructional implications of the findings; and
- (vii) The impact of the child's medical condition(s), if applicable, on his or her educational performance.

(3) If EDIS determines that in order to respond to the CSC referral the scope of its assessment and evaluation must be expanded beyond the areas specified in the initial parental permission, EDIS must:

- (i) Obtain parental permission for the additional activities.
 - (ii) Complete their initial evaluation by the original due date; and
 - (iii) Notify the CSC of the additional evaluation activities.
- (4) When additional evaluation information is submitted by EDIS, the CSC shall review all data and determine the need for program changes and/or the reconsideration of eligibility.

(5) An EDIS provider shall serve on the CSC when eligibility, placement, or requirements for related services that EDIS provides are to be determined.

(6) Related services provided by EDIS, pursuant to an IEP, are educational and not medical services.

B. IEP

(1) EDIS shall be provided the opportunity to participate in the IEP meeting.

(2) EDIS shall provide related services assigned to EDIS that are listed on the IEP.

C. LIAISON WITH DoDDS

Each EDIS shall designate an EDIS Liaison Officer to:

(1) Provide liaison between the EDIS and DoDDS schools.

(2) Offer, on a consultative basis, training for DoDDS personnel on medical aspects of specific disabilities.

(3) Offer consultation and advice as needed regarding the health services provided at school (for example, tracheostomy care, tube feeding, occupational therapy).

(4) Participate with DoDDS and legal personnel in developing and delivering in-service training programs that include familiarization with various conditions that impair a child's educational endeavors, the relationship of medical findings to educational functioning, related services, and this part.

APPENDIX D TO PART 57—THE DoD-AP

A. MEMBERSHIP

(1) The DoD Advisory Panel on Early Intervention and Special Education shall meet as needed in publicly announced, accessible meetings open to the general public and shall comply with DoD Directive 5105.4. The DoD-AP members, appointed by the Secretary of Defense, or designee, shall include at least one representative from each of the following groups:

- (i) Persons with disabilities.
- (ii) Representatives of the Surgeons General of the Military Departments.
- (iii) Representatives of the family support programs of the Military Departments.
- (iv) Special education teachers from the DoD school system.
- (v) Regular education teachers from the DoD school system.
- (vi) Parents of children, ages 3 through 21 years, inclusive, who are receiving special education from the DoD school system.
- (vii) Parents of children, ages birth through 2 years, inclusive, who are receiving EIS from EDIS.
- (viii) Institutions of higher education that prepare early intervention, special education, and related services personnel.
- (ix) Special education program managers from the DoD school systems.
- (x) Representatives of the Military Departments and overseas commands, including providers of early intervention and related services.
- (xi) Representatives of vocational community, or business organizations concerned with transition services.
- (xii) Other appropriate persons.

(2) A majority of panel members shall be individuals with disabilities or parents of children, ages birth through 2 years, inclusive, who are receiving EIS from EDIS and children, ages 3 through 21 years, inclusive who are receiving special education from the DoD school system.

(3) The DoD-AP members shall serve under appointments that shall be for a term not to exceed 3 years.